THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.26888 OF 2005

Dt.16.12.2005

Between:

M/s.Anjaneya Vilas, rep. by its Proprietor,

S.P.Brahmam, Vijayawada … Petitioner

And

Employees Provident Fund Commission,

Rep. by its Regional Provident Fund

Commissioner-II, Guntur. …Respondent

ORDER:

Heard the learned counsel for the petitioners as well as the learned Standing Counsel for the respondent.

Though there is a dispute with regard to the service of order dated 8.8.2005 under Section 7-A of the Employees Provident Fund Miscellaneous Provisions Act 1952 (hereinafter referred to as 'the Act'), the fact remains that the said order was sent along with letter dated 29.9.2005, which was said to have been received by the petitioner on 8.10.2005. It is stated that the petitioner filed a review under Section 7-B of the Act within the prescribed time from the date of receipt of a copy of the said order. But the said review application has been dismissed on the ground that the review was not filed within 45 days from the date of the said order under Section 7-A of the Act. It is stated that it has been specified in paragraph 79-A of the Act that any person aggrieved by the order under Section 7-A desirous to obtain review of such order, he may apply for review of the order under Section 7-B within 45 days from the date of making such an order.

I am of the opinion that if the order itself is not communicated to the party, the party cannot be deprived of his right of filing a review. The only question that arises for consideration is whether the order under Section 7-A of the Act has been communicated to the petitioner. Even after dismissing the review, an appeal lies against the said order to the appellate authority under Section 7-I of the Act. Accordingly, the petitioner is permitted to file an appeal within three weeks from today and on filing such appeal the appellate authority may determine the amount payable by the petitioner pursuant to the order under Section 7-A of the Act. Pending disposal of the appeal, the said amount as determined shall not be collected.

The writ petition is accordingly disposed of. No costs.

(V.ESWARAIAH, J.)

16.12.2005

Note: Issue copy within three days

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